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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/567,769

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Matthias Fischer

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EXAMINER

MCPARTLIN, SARAH BURNHAM

ART UNIT

PAPER NUMBER

3636

MAIL DATE

DELIVERY MODE

06/05/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/567,769

Applicant(s)

FISCHER ET AL.

Examiner

Sarah B. McPartlin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 18-34 is/are rejected.
- 7) ☒ Claim(s) 14-17, 35 and 36 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2/10/06 & 10/12/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Acknowledgement is made of applicant's claim for foreign priority based on application number 10337682.8 filed in Germany on August 11, 2003.

Information Disclosure Statement

2. The information referred to in the information disclosure statements filed on February 10, 2006 and October 12, 2006 have been considered as to the merits.

Specification

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. **The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided.** The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Objections

4. Claims 1-35 are objected to because of several minor informalities. The following words/phrases lack sufficient antecedent basis:

- the back (claim 1, line 3)

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- the tendency (claim 1, line 5)
- the action (claim 1, line 7; claim 1, line 8; claim 4, line 2; claim 5, line 2; claim 29, line 2)
- the locked state (claim 2, line 2; claim 23, line 3; claim 24, line 4; claim 24, line 5)
- the unlocked state (claim 3, line 2; claim 28, line 2)
- the pivotal axis (claim 11, line 2; claim 20, line 4; claim 31, line 3; claim 32, line 3)
- the base plate (claim 22, line 4; claim 23, lines 2-3; claim 32, line 2; claim 33, line 3)
- the clutch (claim 31, line 2; claim 32, line 2; claim 33, line 2)

Claims 6-10, 12-19, 21-22, 25-27, 30 and 35-36 are objected to as being dependent upon an objected base claim.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 9-12, 20-21 and 31-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 states that that "the backrest during uncoupling from the gear element is uncoupled from the spring assembly so that this does not act on the backrest" in lines 2-3. It is unclear what the word "this" is referring to. In the interest of compact prosecution the Examiner has assumed that "this" is referring to the spring assembly. Clarification is required.

Claim 10 recites a locking device in line 5. Is this locking device the same locking device as that first recited in the last line of claim 1? Clarification is required.

Claim 11 recites a predetermined path that is preferably designed so that a reaction of the pivotal movement of the backrest on the gear element is prevented. The phrase preferably designed is indefinite. Is the path designed in such a manner or not? Clarification is required.

Claims 12, 20-21 and 31-33 are rejected as being dependent upon a rejected base claim.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-3, 5, 24-26 and 28 are rejected as best understood with the above cited indefiniteness under 35 U.S.C. 102(b) as being anticipated by Janiaud (4,659,146).

With respect to claim 1, Janiaud discloses a motor vehicle seat (1)(2)(3)(4) with a

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pivotally mounted back rest (3)(4) which can be adjusted in its inclination and which has a front face (3) serving to support the back of a seat user, and a spring assembly (14)(11) with at least one elastic element (14) with which the backrest (3)(4) is elastically pretensioned so that it has the tendency to pivot forwards and to bear with its front face (3) against the back of the seat user, whereby the incline of the backrest (3)(4) can be adjusted through the action of force on the front face thereon against the action of the spring assembly (14)(11) wherein the spring assembly (14)(11) engages on a gear element (16) which is coupled to the backrest (3)(4) by way of seat plate (5) and which is associated with a locking device (18)(19)(20)(21)(22) with which the gear element (16) can be locked in different positions, with respect to spring assembly (14)(11).

With respect to claim 2, the backrest (3)(4) is locked in its relevant inclined position in the locked state of the locking device (see Figure 1).

With respect to claim 3, wherein the incline of the back rest (3)(4) is adjustable in the unlocked state of the locking device (18)(19)(20)(21)(22) (un-illustrated).

With respect to claim 5, the backrest (3)(4) can be pivoted backwards under the action of a compression force on the front face (3) against the action of the spring assembly (14)(11).

With respect to claim 24, the locking device (18)(19)(20)(21)(22) of the gear element (16) has a primary locking element (18) and a secondary locking element (19)(20), whereby the primary locking element (18) in the locked state engages the gear

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element (16) and the secondary locking element (19)(20) blocks the primary locking element (18) in the locked state.

With respect to claim 25, the gear element (16) is formed by a toothed (15) segment lever.

With respect to claim 26, the spring assembly (14)(11) has a spring element (11) that engages on the gear element (16).

With respect to claim 28, wherein the incline of the backrest (3)(4) is adjustable in the unlocked state of the locking device (18)(19)(20)(21)(22).

9. Claims 1-10, 13, 18-19, 22-23, 27-29 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Yokoyama (5,516,198). With respect to claim 1, Yokoyama discloses a motor vehicle seat (10) with a pivotally mounted backrest (14) which can be adjusted in its inclination and which has a front face serving to support the back of a seat user, and a spring assembly (60) with at least one elastic element (60) with which the backrest (14) is elastically pretensioned so that it has the tendency to pivot forwards and to bear with its front face against the back of the seat user, whereby the incline of the backrest can be adjusted through the action of force on the front face thereon against the action of the spring assembly (60), wherein the spring assembly (60) engages on a gear element (40) which is coupled to the backrest (14) and which is associated with a locking device (22) with which the gear element (40) can be locked in different positions.

With respect to claim 2, the backrest (14) is locked in its relevant inclined position in the locked state (Figure 2) of the locking device (22).

With respect to claim 3, wherein the incline of the backrest (14) is adjustable in the unlocked state (Figure 4) of the locking device (22).

With respect to claim 4, the backrest (14) can be pivoted forwards under the action of spring (60) on the gear element (40).

With respect to claim 5, the backrest (14) can be pivoted backwards under the action of a compression force on the front face against the action of the spring assembly (60).

With respect to claim 6, the gear element (40) is a constituent part of a gear assembly (20a)(40)(34)(42)(44), more particularly a lever assembly through which the spring assembly (60) is coupled to the backrest (14).

With respect to claim 7, the gear assembly (20a)(40)(34)(42)(44) serves to translate a torque exerted by the spring assembly (60) on the gear element (40).

With respect to claim 8, the gear element (40) is assigned a clutch (42) by which the backrest (14) can be uncoupled from the gear element (40) so that the backrest (14) can be folded forwards towards the seat surface (18) of the motor vehicle seat without the gear element (40) being moved.

With respect to claim 9, wherein the backrest (14) during uncoupling from the gear element (40) is uncoupled from the spring assembly (60) so that this does not act on the backrest (14).

With respect to claim 10, the gear element (40) is assigned a clutch (42) by which the backrest (14) can be uncoupled from the gear element (40) so that the backrest can be folded forwards towards the seat surface (18) when the gear element (40) is locked by the locking device (22).

With respect to claim 13, the gear element (40) can be brought out of engagement with the backrest (14) so that the gear element (40) is not in connection with the backrest (14).

With respect to claim 18, the locking means (22) are provided by which the clutch (42) can be locked in a state in which the gear element (40) is coupled to the backrest.

With respect to claim 19, the locking means (22) are provided by which the clutch (42) can be locked in a state in which the gear element (40) is uncoupled to the backrest.

With respect to claim 22, locking means (50)(52) are provided by which the clutch (42) can be locked in a state in which the gear element (40) is coupled to the backrest (14) and wherein the locking means (50)(52) engage on the base plate (34) in order to prevent movement thereof.

With respect to claim 23, wherein locking means are formed by a lever (50) guided in an oblong hole (52) by way of action from locking device (22) and pretensioned elastically towards the locked state by way of spring (54).

With respect to claim 27, the gear element (40) is brought into engagement with the locking device (22) by way of toothed gearing (28)(36).

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With respect to claim 28, the incline of the backrest is adjustable in the unlocking state of the locking device (22).

With respect to claim 29, the backrest (14) can be pivoted backwards under the action of a compression force on the front face against the action of the spring assembly (60).

With respect to claim 34, the locking means (50)(52) are provided by which the clutch (42) can be locked in a state in which the gear element (40) is uncoupled from the backrest (14), and wherein the locking means (50)(52) engage the base plate (34) in order to prevent movement thereof.

10. Claims 1-3 and 11-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Haglund (6,685,270). With respect to claim 1, Haglund discloses a motor vehicle seat with a pivotally mounted backrest (13) which can be adjusted in its inclination and which has a front face (unlabeled) serving to support the back of a seat user, and a spring assembly (22)(23A) with at least one elastic element (22) with which the backrest (13) is elastically pretensioned so that it has the tendency to pivot forwards and to bear with its front face against the back of the seat user, whereby the incline of the backrest (13) can be adjusted through the action of force on the front face thereon against the action of the spring assembly (22)(23A), the spring assembly (22)(23A) engages on a gear element (32) by way of link (10) which is coupled to the backrest (13) and which is associated with a locking device (40) with which the gear element (32) can be locked in different positions.

With respect to claim 2, wherein the backrest is locked in its relevant incline position in the locked state of the locking device (40).

With respect to claim 3, wherein the incline of the backrest is adjustable in the unlocked state (un-illustrated) of the locking device (40).

With respect to claim 11, the pivotal axis (15) of the backrest in order to uncouple the backrest (13) from the gear element (32) as the backrest is folded forwards is moved along a predetermined path set by slot (52) which is preferably deigned so that a reaction of the pivotal movement of the backrest on the gear element is prevented.

With respect to claim 12, the path is formed by a guide device (52) in which the pivotal axis is guided to move left when moving from the upright position to the forwardly folded potion.

Allowable Subject Matter

11. Claims 14-17 and 35-36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. Claim 20-21 and 30-33 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Yamaguchi et al. (5,718,483); Perkins (3,788,698); Deptolla (6,659,557); Tame (US 2004/0113478); Hoshihara (5,547,254); Tame (5,733,008); Klingelhofer et al. (4,103,964); Tame (7,086,697); Ferrari et al. (2006/0273645) and Su (6,145,930).

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah B. McPartlin whose telephone number is 571-272-6854. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Sarah B. McPartlin/
Patent Examiner
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SBM
May 31, 2007